IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3939 of 2005

Between:

J.Ramesh S/o.Gangadhar
R/o.No.5-67, Hasakothur (m),Kammarpally District
Nizamabad.

..... PETITIONER

AND

The Regional Passport Officer, Near Clock Tower,
Secunderabad, rep. by its passport officer.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent in not receiving the application, and not correcting the date of birth and identification marks of the petitioner in the passport bearing No.U-853809 as 7-6-1977 in the place of 7.6.1974 and 1 A mole on the right hand 2.A mole on the nose in the place of A mole on the chest as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondent to receive the petitioner application and consider the same for issuing fresh passport duly correcting the date of birth and identification marks of the petitioner on 7.6.77 and 1 A mole on the right hand 2.A mole on the nose.

Counsel for the Petitioner:MR.GUNDLAPALLI LAXMI NARASIMHA RAO

Counsel for the Respondent : Smt.H.SEETA DEVI (SC FOR CG)

The Court at the stage of admission made the following :

O R D E R:

-

Heard the learned counsel for the petitioner and the learned standing counsel for the Central Government appearing for the respondent-Passport Authority-Passport Authority.

It is the case of the petitioner that his actual date of birth is 07.06.1977 and the identification marks, as evident from his Secondary school certificate, are a mole on the right hand and a mole on the nose. But, in the passport issued to him by the respondent-Passport Authority on 16.09.1995, his date of birth was wrongly mentioned as 07.06.1974 and his identification mark is mentioned as a mole on the chest, and that though he made an application to the respondent-Passport Authority on 02.02.2005 to alter his date of birth and identification marks in the Passport and issue fresh passport, the respondent-Passport Authority refused to entertain his application on the ground that he has no power to make any corrections in the passport and directed the petitioner to bring an order from the Court regarding correction of his date of birth and identification marks. Aggrieved by the said action respondent, this writ petition is filed.

It is required to be noticed that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
>
> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
>
> (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a

> change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As on today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the respondent ought to have considered the application of the petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Therefore, the Writ Petition is disposed of with a direction to the respondent to consider the request of the petitioner afresh on the basis of his application dated 02.02.2005 for issuance of fresh passport with correct date of birth and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case, in the light of the aforementioned circular, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

_____

02.03.2005

Note : Furnish C.C.in two days.

(B/O)

sh

To

1 The Regional Passport Officer, Near Clock Tower,
Secunderabad.

2 2 CD copies

3 1 CC to MR.GUNDLAPALLI LAXMI NARASIMHA RAO